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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR - 7 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matters of)

Rulemaking to Amend Part 1 and Part 2)
of the Commission's Rules to Redesignate)
the 27.5 - 29.5 GHz Frequency Band for)
Local Multipoint Distribution Service;)

Applications for Waiver of the)
Commission's Common Carrier Point-to-)
Point Microwave Radio Service Rules;)

Suite 12 Group Petition for Pioneer's)

CC Docket No. 92-297

RM-7872; RM-7722

PP-22

cable television industry. With some exceptions,² most commenters shared this view with many applauding the Commission for "...its visionary approach ... in the 28 GHz band proposal."³

While the majority of commenters appear to have supported the overall direction of the Commission's proposals regarding local measured distribution service (LMDS), many, like Bell Atlantic, argued that letting an LMDS licensee choose private or common carrier status could result in a marketplace made competitively uneven by regulation.⁴ Bell Atlantic urges the Commission to assure all service providers a level playing field by adopting rules that do not award one group of competitors an artificial advantage over another.⁵

Like Bell Atlantic, most of the commenters agreed that a ten-year, rather than the proposed five-year, license term was appropriate for this service. Five years is simply too short a period of time to attract the financial backing needed to construct these systems. In addition, there was a consensus that the "90%-in-three-years" coverage requirement was unrealistic for an undertaking of this kind.

Bell Atlantic's comments pointed out that, in the cellular experience, market forces, not regulatory rules, drove the cellular carriers to expand their coverage. The Commission should heed this lesson and rely on the market to determine how quickly and how expansively the

² See, e.g., Comments of The Wireless Cable Association International, Inc.

³ Comments of Motorola, Inc. at 1.

⁴ "...[T]he Commission [should] review the regulatory status of licensees for different services and ... regulate all participants in this market in a symmetric fashion." Comments of Pacific Telesis Group at 3. See also, Comments of GTE at 8.

⁵ "...[T]he Commission should evaluate the nature of the service and the manner in which it is offered and make the determination as to common carrier or private/non-common carrier status accordingly. This determination should be made without regard to the status of the service provider as a LEC." Comments of Sprint Corporation at i.

coverage for LMDS will be deployed. To the extent it is felt necessary to guard against the rare case of "spectrum warehousing," a 50% build out requirement is sufficient.

Finally, some commenters proposed spectrum set asides for multichannel multipoint distribution systems (MMDS) or for educational use.⁶ Because one of the chief goals of LMDS is to offer competitive alternatives for video delivery, the Commission concluded that no party should have a set aside of spectrum and tentatively denied both requests. Most commenters, including Bell Atlantic, have urged the FCC to confirm this tentative conclusion. In the case of MMDS licensees, their claims of possible injury at the hands of LMDS carriers are unproved, while the wishes of various educational institutions for one half the LMDS allocation - although certainly made in good faith - would either reduce the number of new entrants into the video service market or reduce the capacity of these new systems to provide video services in competition with the existing CATV operator.⁷

⁶ See, e.g., Comments of The Coalition For Wireless Cable at 2 *et seq.*; Comments of the University of California at 1 to 2.

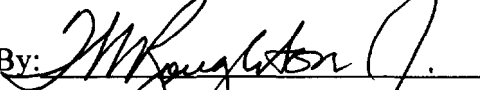
⁷ Note too that some of the educational institutions' requests for a set aside are not premised only on providing educational services, but also on entering into "excess capacity leasing arrangements" with "commercial video entertainment dissemination companies." According to the University of California, these arrangements will have many benefits among which are "more efficiently and more fully utilizing the 28 GHz radio spectrum." Comments of the University of California at 2.

CONCLUSION

Bell Atlantic supports the Commission's efforts to spur the development of new video delivery systems that will increase the public's choice of suppliers and services. To assure full and fair competition in the delivery of video services, Bell Atlantic urges the Commission to modify its proposals as set out above.

Respectfully submitted,

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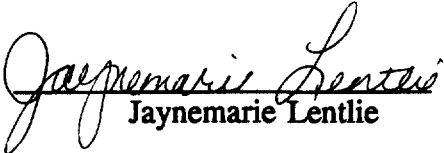
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ITS ATTORNEY

April 7, 1993

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Reply Comments of Bell Atlantic Personal Communications, Inc. to Notice of Proposed Rulemaking, Order, Tentative Decision and Order on Reconsideration" was served this 7th day of April, 1993, by delivery thereof by first class mail, postage prepaid, to the parties on the attached list.


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